

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 36, “Facility Assessments,” Iowa Administrative Code.

These amendments raise the amount of the assessment fee charged to an intermediate care facility for persons with mental retardation (an ICF/MR) from 5.5 percent to 6.0 percent of the facility’s revenue. Iowa Code section 249A.21 allows the Department to assess a fee of up to 6.0 percent of facility revenues. Since January 1, 2008, the assessment has been limited to 5.5 percent of revenues due to a provision of Public Law 109-432, the Tax Relief and Health Care Act of 2006. This federally imposed reduction on the maximum allowable assessment expires on September 30, 2011.

Increasing the ICF/MR provider tax is a revenue enhancement for the Medicaid program, since revenue from the assessment is credited to the state medical assistance appropriation. The assessment has no net financial effect on providers, because the assessment fee paid is considered an allowable cost and is included in each facility’s Medicaid per diem rate as an add-on. The state benefits because the federal financial participation is higher with the higher reimbursement rate.

These amendments also include technical changes to update legal references in the remainder of Chapter 36.

These amendments do not provide for waivers in specified situations because waivers would make the application of the assessment fee inequitable to facilities. Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to rule 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before July 19, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.21.

The following amendments are proposed.

ITEM 1. Amend rule 441—36.1(249A) as follows:

441—36.1(249A) Assessment of fee. Intermediate care facilities for the mentally retarded (ICFs/MR) licensed in Iowa under 481—Chapter 64 shall pay a monthly fee to the department. Effective ~~January 1, 2008~~ October 1, 2011, the fee shall equal ~~5.5~~ 6.0 percent of the total revenue of the facility for the facility’s preceding fiscal year divided by the number of months of facility operation during the preceding fiscal year.

ITEM 2. Amend **441—Chapter 36**, Division II, preamble, as follows:

These rules describe the nursing facility quality assurance assessment authorized by ~~2009~~ Iowa Code ~~Supplement~~ chapter 249L. The rules explain how the assessment is determined and paid.

ITEM 3. Amend **441—Chapter 36**, Division II, implementation sentence, as follows:

These rules are intended to implement ~~2009~~ Iowa Code ~~Supplement~~ chapter 249L.

ITEM 4. Amend **441—Chapter 36**, Division III, preamble, as follows:

These rules describe the hospital health care access assessment authorized by ~~2010 Iowa Acts, Senate File 2388, enacted by the Eighty-third General Assembly~~ Code chapter 249M. The rules explain how the assessment is determined and paid.

ITEM 5. Strike the parenthetical implementation “(83GA,SF2388)” in rules **441—36.10(83GA,SF2388)** to **441—36.12(83GA,SF2388)** and insert “(249M)” in lieu thereof.

ITEM 6. Amend **441—Chapter 36**, Division III, implementation sentence, as follows:

These rules are intended to implement ~~2010 Iowa Acts, Senate File 2388~~ Code chapter 249M.